

ORIGINAL

1 Mr. Frank Albert Florez
2 CDCR ID #V-18804
3 CTF-North R.B. 314
4 P.O. Box 705
5 Soledad, CA 93960

6
7 In Pro se
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

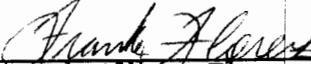
FRANK ALBERT FLOREZ,) Case No. C 06-4141 JSW (PR)
vs.)
Petitioner,) PETITIONER'S MOTION FOR RELIEF
vs.) FROM DEFAULT FOR LATE FILING
THOMAS L. CARREY, Warden,) OF NOTICE OF APPEAL
Respondent.)

Under Federal Rule of Appellate Procedure Rule 4(a)(5), Petitioner-Appellant
Frank Albert Florez request a thirty day extension of time to file Notice of
Appeal. Currently, the last day to file notice of appeal was Tuesday, April 2,
2009. Rules 3, 4, Fed.R.App.P.

The reasons for this request are set forth in the accompanying Declaration
of Frank Albert Florez.

Dated: May 3, 2009

Respectfully submitted,


Frank Albert Florez
In Pro se

1 Mr. Frank Albert Florez
2 CDCR ID #V-18804
3 CTF-North R.B. 314
P.O. Box 705
Soledad, CA 93960

4 In Pro se

5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 FRANK ALBERT FLOREZ,

Case No. C 06-4141 JSW (PR)

9 Petitioner,

10 vs.

11 THOMAS L. CAREY, Warden,

DECLARATION OF PETITIONER IN
SUPPORT OF PETITIONER'S MOTION
FOR RELIEF FROM DEFAULT FOR
LATE FILING OF NOTICE OF APPEAL

12 Respondent. /

13
14 I, Frank Albert Florez, declare:

15 I am a state prisoner the petitioner-appellant in the above entitle cause
16 of action proceeding without counsel petition for a writ of habeas corpus
17 under 28 U.S.C. § 2254. This Court issued an ordered denying petition for a
18 writ of habeas corpus on March 2, 2009.

19 1. When I received this denial of habeas relief from the U.S. Northern
20 District Court I was housed at Corcoran State Prison, and due to the over
21 crowded contitions and the ongoing lockdowns therein Corcorn, and without a
22 court order deadline I was not able to access the law library therein.

23 2. To further impede my ability to file the notice of appeal within the
24 time frames on or about April 5, 2009, I was told to pack up my personal
25 property because I was being transferred to Soledad State Prison CTF-North.

26 3. On April 9, 2009, I was transferred from Corcorn to Soledad State Prison
27 CTF-North. Upon my arrival I was confined to quarter do to my new arrival

1 status (CTQ) and on April 22, 2009, I appeared before CIF-North Classification
2 Committee thereafter I was released to general population.

3 4. Due to the overcrowded conditions and ongoing lockdowns herein CIF-North
A-Yard, and without court order deadlines I was not given priority access to
5 law library herein CTF-North has impeded my ability to properly research and
6 meet the required time frame to file a notice of appeal.

7 5. Petitioner-Appellant has not sought any extension before now.

8 6. I have exercised diligence in seeking to accomplish all that needs to
9 be done on time, but find that the requested extension is required to properly
10 prepare the notice of appeal.

11 7. This request is not made for any improper purposes, the request
12 extension will cause no prejudice to Respondent-Appellee and I am confident
13 that I can complete the Notice of Appeal within the thirty days.

14 I declare under penalty of perjury that the above statements are true.

15
16 Dated: May 3, 2009



17 Declarant/Frank Albert Florez
CDCR ID #V-18804
18 In Pro se
19
20
21
22
23
24
25
26
27
28

1 Mr. Frank Albert Florez
2 CDCR ID #V-18804
3 CTF-North R.B. 314
P.O. Box 705
Soledad, CA 93960

4 In Pro se

5
6
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 FRANK ALBERT FLOREZ,

) Case No. C 06-4141 JSW (PR)

11 Petitioner-Appellant,

) NOTICE OF APPEAL

12 vs.

13 THOMAS L. CAREY, Warden,

14 Respondent-Appellee.

15

16 Petitioner-Appellant Frank Albert Florez, is a state prisoner proceeding
17 without counsel appeal to the United States Court of Appeals for the Ninth
18 Circuit from the order of the United States District Court for the Northern
19 District of California filed March 2, 2009, granting a judgment in favor of
20 Respondent, based on the Court found "there was no constitutional error found
21 in the preceding claims, there is nothing to accumulate in order to warrant
22 relief."

23 Dated: May 3, 2009,

Respectfully submitted,


24 _____
25 Frank Albert Florez

26
27
28

In Pro se

DECLARATION OF SERVICE BY MAIL

CASE NAME: FRANK ALBERT FLOREZ, Petitioner vs. THOMAS L. CAREY, Warden, Respondent.

CASE NO.: C 06-4141 JSW (PR)

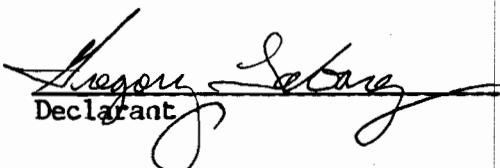
I, Gregory Tabarez, declare that I am over the age of eight-teen (18) years; I am/am not a party to the attached action; I served the attached documents entitled: MOTION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL; NOTICE OF APPEAL

on the persons/parties specified below by placing a true copy of said documents into a sealed envelope with the appropriate postage affixed thereto and surrendering said envelope(s) to the staff of the California Department of Corrections and Rehabilitation Facilities entrusted with the logging and mailing of inmate legal mail addressed as follows:

(1) U.S. District Court for the Northern District of California

There is First Class mail delivery service by the United States Post Office between the place of mailing and the addresses indicated above. I declare under the penalty of perjury under the laws of the United States and the of California that the foregoing is true and correct and that I executed this service this

3 day of May 2009, in Soledad State Prison, California.



Declarant